

**IN THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF NEW YORK**

MOTOROLA, INC.	)	
	)	
Plaintiff, Counter-Defendant,	)	Civil Action No. 07-10436 (CLB) (GAY)
	)	
v.	)	
	)	
DIGITAL TECHNOLOGY LICENSING LLC,	)	District Judge Charles L. Brieant
	)	
Defendant, Counter-Plaintiff.	)	Magistrate Judge George A. Yanthis

---

DIGITAL TECHNOLOGY LICENSING LLC,	)	
	)	
Third-Party Plaintiff,	)	
	)	
v.	)	
	)	
SPRINT NEXTEL CORPORATION, CELLCO	)	
PARTNERSHIP D/B/A VERIZON WIRELESS,	)	
AND T-MOBILE USA, INC.,	)	ECF Case
	)	
Third-Party Defendants.	)	Document Filed Electronically

---

**MOTOROLA INC.'S AMENDED NOTICE OF MOTION TO DISMISS,  
OR IN THE ALTERNATIVE TO SEVER AND STAY,  
DIGITAL TECHNOLOGY LICENSING LLC'S THIRD-PARTY COMPLAINT**

PLEASE TAKE NOTICE that, upon the attached Declaration of Michael I. Cohen, dated January 9, 2008 and the documents annexed thereto, and the accompanying memorandum in support dated January 9, 2008, Plaintiff Motorola, Inc. will move before the Honorable Charles L. Brieant, Judge of the United States District Court for the Southern District of New York, at Courtroom 218 of the United States Courthouse, 300 Quarropas Street, White Plains, NY, 10601-4150, on Friday, February 15, 2008 at 10:00 a.m., for an order to dismiss Digital Technology Licensing LLC's ("DTL") Third-Party Complaint pursuant to Fed. R. Civ. P.

12(b)(6) for failure to state a claim under Fed. R. Civ. P. 14(a); to dismiss DTL's Third-Party Complaint pursuant to the Court's inherent power to control its docket so as to avoid duplicative litigation and prevent forum shopping; or to sever, and then stay, DTL's Third-Party Complaint pursuant to Fed. R. Civ. P. 21.

Dated: January 9, 2008

Respectfully submitted,

/s Michael I. Cohen

Russell E. Levine, P.C. (RL2466)  
Paul D. Collier  
Michael I. Cohen  
KIRKLAND & ELLIS LLP  
200 E. Randolph Dr.  
Chicago, Illinois 60601  
(312) 861-2000 (telephone)  
(312) 861-2200 (facsimile)  
rlevine@kirkland.com  
pcollier@kirkland.com  
micohen@kirkland.com

John M. Desmarais, P.C. (JD6460)  
Jon T. Hohenthanner (JH1000)  
KIRKLAND & ELLIS LLP  
Citigroup Center  
153 East 53rd Street  
New York, New York 10022-4611  
(212) 446-6466 (telephone)  
(312) 660-0766 (facsimile)  
jdesmarais@kirkland.com  
jhohenthanner@kirkland.com

*Attorneys for Plaintiff Motorola, Inc.*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing **MOTOROLA INC.'S AMENDED NOTICE OF MOTION TO DISMISS, OR IN THE ALTERNATIVE TO SEVER AND STAY, DIGITAL TECHNOLOGY LICENSING LLC'S THIRD-PARTY COMPLAINT** was served on counsel of record as listed below via ECF filing on January 9, 2008:

*Attorneys for Defendant Digital Technology Licensing LLC*

Steven L. Procaccini, Esq.  
Lerner, David, Littenberg, Krumholz & Mentlik, LLP  
600 South Avenue West  
Westfield, NJ 07090-1497  
Tel: (908) 518-6373  
Fax: (908) 654-7866  
sprocaccini@ldlkm.com

*Attorneys for Third-Party Defendant T-Mobile USA, Inc.*

Richard S. Mandaro, Esq.  
Ira E. Siflin, Esq.  
Amster, Rothstein & Ebenstein LLP  
90 Park Avenue  
New York, New York 10016  
Tel: (212) 336-8000  
Fax: (212) 336-8001  
rmandaro@arelaw.com  
isiflin@arelaw.com

/s Michael I. Cohen

*Attorney for Plaintiff Motorola, Inc.*